

**DEVELOPER'S STATEMENT FOR
WIEMANN MAJOR GRADING PERMIT
PMTG2022-00005**

NOVEMBER 18, 2022

The applicant agrees to incorporate the following measures into the project. These measures become a part of the project description and therefore become a part of the record of action upon which the environmental determination is based. All development activity must occur in strict compliance with the following mitigation measures. These measures shall be perpetual and run with the land. These measures are binding on all successors in interest of the subject property.

Note: The items contained in the boxes labeled "Monitoring" describe the County procedures to be used to ensure compliance with the mitigation measures.

Exhibit B - Mitigation Summary

The following mitigation measures address impacts that may occur as a result of the development of the project.

Air Quality

AQ-1 Prior to issuance of construction permits, the following measures related to ROG and NO_x shall be incorporated into the construction phase of the project and shown on all applicable construction plans:

- a. Maintain all construction equipment in proper tune according to manufacturer's specifications;
- b. Fuel all off-road and portable diesel-powered equipment with ARB certified motor vehicle diesel fuel (non-taxed version suitable for use off-road);
- c. Use diesel construction equipment meeting ARB's Tier 2 certified engines or cleaner off-road heavy-duty diesel engines, and comply with the State Off-Road Regulation;
- d. Use on-road heavy-duty trucks that meet the ARB's 2007 or cleaner certification standard for on-road heavy-duty diesel engines, and comply with the State On-Road Regulation;
- e. Construction or trucking companies with fleets that do not have engines in their fleet that meet the engine standards identified in the above two measures (e.g. captive or NO_x exempt area fleets) may be eligible by proving alternative compliance;
- f. All on and off-road diesel equipment shall not idle for more than 5 minutes. Signs shall be posted in the designated queuing areas and or job sites to remind drivers and operators of the 5-minute idling limit;
- g. Diesel idling within 1,000 feet of sensitive receptors is not permitted;
- h. Staging and queuing areas shall not be located within 1,000 feet of sensitive receptors;
- i. Electrify equipment when feasible;

- j. Substitute gasoline-powered in place of diesel-powered equipment, where feasible; and,
- k. Use alternatively fueled construction equipment on-site where feasible, such as compressed natural gas (CNG), liquefied natural gas (LNG), propane or biodiesel.

AQ-2 Prior to issuance of construction permits, the following measures related to fugitive dust emissions shall be incorporated into the construction phase of the project and shown on all applicable construction plans:

- a. Reduce the amount of the disturbed area where possible;
- b. Use of water trucks or sprinkler systems in sufficient quantities to prevent airborne dust from leaving the site. Increased watering frequency would be required whenever wind speeds exceed 15 mph. Reclaimed (non-potable) water should be used whenever possible;
- c. All dirt stock pile areas should be sprayed daily as needed;
- d. Permanent dust control measures identified in the approved project revegetation and landscape plans should be implemented as soon as possible following completion of any soil disturbing activities;
- e. Exposed ground areas that are planned to be reworked at dates greater than one month after initial grading should be sown with a fast germinating, non-invasive grass seed and watered until vegetation is established;
- f. All disturbed soil areas not subject to revegetation should be stabilized using approved chemical soil binders, jute netting, or other methods approved in advance by the APCD;
- g. All roadways, driveways, sidewalks, etc. to be paved should be completed as soon as possible. In addition, building pads should be laid as soon as possible after grading unless seeding or soil binders are used;
- h. Vehicle speed for all construction vehicles shall not exceed 15 mph on any unpaved surface at the construction site;
- i. All trucks hauling dirt, sand, soil, or other loose materials are to be covered or should maintain at least two feet of freeboard (minimum vertical distance between top of load and top of trailer) in accordance with CVC Section 23114;
- j. Install wheel washers where vehicles enter and exit unpaved roads onto streets, or wash off trucks and equipment leaving the site;
- k. Sweep streets at the end of each day if visible soil material is carried onto adjacent paved roads. Water sweepers with reclaimed water should be used where feasible;
- l. All of these fugitive dust mitigation measures shall be shown on grading and building plans; and
- m. The contractor or builder shall designate a person or persons to monitor the fugitive dust emissions and enhance the implementation of the measures as necessary to minimize dust complaints, reduce visible emissions below 20% opacity, and to prevent transport of dust offsite. Their duties shall include holidays and weekend periods when work may not be in progress. The name and telephone number of such persons shall be provided to the APCD Compliance Division prior to the start of any grading, earthwork or demolition.

AQ-1 to AQ-2 Monitoring: Required prior to issuance of construction permits. Compliance will be verified by the County Department of Planning and Building.

Biological Resources

San Joaquin Kit Fox Habitat Protection and Mitigation Measures

BR-1 Prior to issuance of grading and/or construction permits, the applicant shall submit evidence to the County of San Luis Obispo, Department of Planning and Building, Environmental and Resource Management Division (County) (see contact information below) which states that one or a combination of the following three San Joaquin Kit Fox mitigation measures has been implemented:

- a. Provide for the protection in perpetuity, through acquisition of fee or a conservation easement of 0.89 acres of suitable habitat in the Kit Fox corridor area (e.g. within the San Luis Obispo County Kit Fox habitat area, northwest of Highway 58), either on-site or off-site, and provide for a non-wasting endowment to provide for management and monitoring of the property in perpetuity. Lands to be conserved shall be subject to the review and approval of the California Department of Fish and Game (Department) (see contact information below) and the County.

This mitigation alternative (a.) requires that all aspects of this program must be in place before County permit issuance or initiation of any ground disturbing activities.

- b. Deposit funds into an approved in-lieu fee program, which would provide for the protection in perpetuity of suitable habitat in the Kit Fox corridor area within San Luis Obispo County and provide for a non-wasting endowment for management and monitoring of the property in perpetuity.

Mitigation alternative (b) above, can be completed by providing funds to The Nature Conservancy (TNC) pursuant to the Voluntary Fee-Based Compensatory Mitigation Program (Program). The Program was established in agreement between the Department and TNC to preserve San Joaquin Kit Fox habitat, and to provide a voluntary mitigation alternative to project proponents who must mitigate the impacts of projects in accordance with the California Environmental Quality Act (CEQA). This fee is calculated based on the current cost-per-unit of \$2500 per acre of mitigation, which is scheduled to be adjusted to address the increasing cost of property in San Luis Obispo County; your actual cost may increase depending on the timing of payment. This fee must be paid after the Department provides written notification identifying your mitigation options but prior to County permit issuance and initiation of any ground disturbing activities.

- c. Purchase 0.99 credits in a Department-approved conservation bank, which would provide for the protection in perpetuity of suitable habitat within the Kit Fox corridor area and provide for a non-wasting endowment for management and monitoring of the property in perpetuity.

Mitigation alternative (c) above, can be completed by purchasing credits from the Palo Prieto Conservation Bank (see contact information below). The Palo Prieto Conservation Bank was established to preserve San Joaquin Kit Fox habitat, and to provide a voluntary mitigation alternative to project proponents who must mitigate the impacts of projects in accordance with the California Environmental Quality Act (CEQA). The cost for purchasing credits is payable to the owners of The Palo Prieto Conservation Bank. This fee is calculated based on the current cost-per-credit of \$2500 per acre of mitigation. The fee is established by the conservation bank owner and may change at any time. Your actual cost may increase depending on the timing of payment. Purchase of credits must be completed prior to County permit issuance and initiation of any ground disturbing activities.

BR-2 Prior to issuance of grading and/or construction permits, the applicant shall provide evidence that they have retained a qualified biologist acceptable to the County Division of Environmental and Resource Management. The retained biologist shall perform the following monitoring activities:

- a. Prior to issuance of grading and/or construction permits and within 30 days prior to initiation of site disturbance and/or construction, the biologist shall conduct a pre-activity (i.e. pre-construction) survey for known or potential Kit Fox dens and submit a letter to the County reporting the date the survey was conducted, the survey protocol, survey results, and what measures were necessary (and completed), as applicable, to address any Kit Fox activity within the project limits.
- b. The qualified biologist shall conduct weekly site visits during site-disturbance activities (i.e. grading, disking, excavation, stock piling of dirt or gravel, etc.) that proceed longer than 14 days, for the purpose of monitoring compliance with required Mitigation Measures BIO-3 through BIO-11. Site- disturbance activities lasting up to 14 days do not require weekly monitoring by the biologist unless observations of Kit Fox or their dens are made on-site, or the qualified biologist recommends monitoring for some other reason. When weekly monitoring is required, the biologist shall submit weekly monitoring reports to the County.
- c. Prior to or during project activities, if any observations are made of San Joaquin Kit Fox, or any known or potential San Joaquin Kit Fox dens are discovered within the project limits, the qualified biologist shall re-assess the probability of incidental take (e.g. harm or death) to Kit Fox. At the time a den is discovered, the qualified biologist shall contact the U.S. Fish and Wildlife Service and the Department for guidance on possible additional Kit Fox protection measures to implement and whether a Federal and/or State incidental take permit is needed. If a potential den is encountered during construction, work shall stop until such time the U.S. Fish and Wildlife Service/Department determine it is appropriate to resume work.

If incidental take of Kit Fox during project activities is possible, before project activities commence, the applicant must consult with the U.S. Fish and Wildlife Service and the Department (see contact information below). The results of this consultation may require the applicant to obtain a Federal and/or State permit for incidental take during project activities. The applicant should be aware that the presence of Kit Foxes or known or potential Kit Fox dens at the project site could result in further delays of project activities.

In addition, the qualified biologist shall implement the following measures:

1. Within 30 days prior to initiation of site disturbance and/or construction, fenced exclusion zones shall be established around all known and potential Kit Fox dens. Exclusion zone fencing shall consist of either large, flagged stakes connected by rope or cord, or survey laths or wooden stakes prominently flagged with survey ribbon. Each exclusion zone shall be roughly circular in configuration with a radius of the following distance measured outward from the den or burrow entrances:
 - a. Potential Kit Fox den: 50 feet
 - b. Known or active Kit Fox den: 100 feet
 - c. Kit Fox pupping den: 150 feet
2. All foot and vehicle traffic, as well as all construction activities, including storage of supplies and equipment, shall remain outside of exclusion zones. Exclusion zones shall be maintained until all project-related disturbances have been terminated, and then shall be removed.

3. If Kit Foxes or known or potential Kit Fox dens are found on site, daily monitoring during ground disturbing activities shall be required by a qualified biologist.

BR-3 Prior to issuance of grading and/or construction permits, the applicant shall clearly delineate as a note on the project plans, that: "Speed signs of 25 mph (or lower) shall be posted for all construction traffic to minimize the probability of road mortality of the San Joaquin Kit Fox". Speed limit signs shall be installed on the project site within 30 days prior to initiation of site disturbance and/or construction.

In addition, prior to permit issuance and initiation of any ground disturbing activities, conditions BIO-3 through BIO-11 of the Developer's Statement/Conditions of Approval shall be clearly delineated on project plans.

BR-1 to BR-3 Monitoring: Required prior to issuance of construction permits. Compliance will be verified by the County Department of Planning and Building.

BR-4 Prior to issuance of grading and/or construction permit and within 30 days prior to initiation of site disturbance and/or construction, all personnel associated with the project shall attend a worker education training program, conducted by a qualified biologist, to avoid or reduce impacts on sensitive biological resources (i.e. San Joaquin Kit Fox). At a minimum, as the program relates to the Kit Fox, the training shall include the Kit Fox's life history, all mitigation measures specified by the county, as well as any related biological report(s) prepared for the project. The applicant shall notify the County shortly prior to this meeting. A Kit Fox fact sheet shall also be developed prior to the training program, and distributed at the training program to all contractors, employers and other personnel involved with the construction of the project.

BR-4 Monitoring: Required prior to any site disturbance or construction activities, and during the life of the project when new construction personnel join the project. Compliance will be verified by the County Department of Planning and Building.

BR-5 During the site disturbance and/or construction phase, grading and construction activities after dusk shall be prohibited unless coordinated through the County, during which additional Kit Fox mitigation measures may be required.

BR-6 During the site-disturbance and/or construction phase, to prevent entrapment of the San Joaquin Kit Fox, all excavation, steep-walled holes or trenches in excess of two feet in depth shall be covered at the close of each working day by plywood or similar materials or provided with one or more escape ramps constructed of earth fill or wooden planks. Trenches shall also be inspected for entrapped Kit Fox each morning prior to onset of field activities and immediately prior to covering with plywood at the end of each working day. Before such holes or trenches are filled, they shall be thoroughly inspected for entrapped Kit Fox. Any Kit Fox so discovered shall be allowed to escape before field activities resume or removed from the trench or hole by a qualified biologist and allowed to escape unimpeded.

BR-7 During the site-disturbance and/or construction phase, any pipes, culverts, or similar structures with a diameter of four inches or greater, stored overnight at the project site shall be thoroughly inspected for trapped San Joaquin Kit Foxes before the subject pipe is subsequently buried, capped, or otherwise used or moved in any way. If during the construction phase a Kit Fox is discovered inside a pipe, that section of pipe

will not be moved, or if necessary, be moved only once to remove it from the path of activity, until the Kit Fox has escaped.

BR-8 During the site-disturbance and/or construction phase, all food-related trash items such as wrappers, cans, bottles, and food scraps generated shall be disposed of in closed containers only and regularly removed from the site. Food items may attract San Joaquin Kit Foxes onto the project site, consequently exposing such animals to increased risk of injury or mortality. No deliberate feeding of wildlife shall be allowed.

BR-9 Prior to, during and after the site-disturbance and/or construction phase, use of pesticides or herbicides shall comply with all local, state and federal regulations. This is necessary to minimize the probability of primary or secondary poisoning of endangered species utilizing adjacent habitats, and the depletion of prey upon which San Joaquin Kit Foxes depend.

BR-10 During the site-disturbance and/or construction phase, any contractor or employee that inadvertently kills or injures a San Joaquin Kit Fox or who finds any such animal either dead, injured, or entrapped shall be required to report the incident immediately to the applicant and County. In the event that any observations are made of injured or dead Kit Fox, the applicant shall immediately notify the U.S. Fish and Wildlife Service and the Department by telephone (see contact information below). In addition, formal notification shall be provided in writing within three working days of the finding of any such animal(s). Notification shall include the date, time, location and circumstances of the incident. Any threatened or endangered species found dead or injured shall be turned over immediately to the Department for care, analysis, or disposition.

B5-5 to BR-10 Monitoring: Required during site disturbance and construction activities. Compliance will be verified by the County Department of Planning and Building.

BR-11 Prior to final inspection, or occupancy, whichever comes first, should any long internal or perimeter fencing be proposed or installed, the applicant shall do the following to provide for Kit Fox passage:

- a. If a wire strand/pole design is used, the lowest strand shall be no closer to the ground than 12".
- b. If a more solid wire mesh fence is used, 8" x 12" openings near the ground shall be provided every 100 yards.

Upon fence installation, the applicant shall notify the County to verify proper installation. Any fencing constructed after issuance of a final permit shall follow the above guidelines.

BR-11 Monitoring: Require prior to the final inspection of the carwash. Compliance will be verified by the County Department of Planning and Building.

American Badger Protection Measures

BR-12 Pre-construction Survey for American Badger. A qualified biologist shall complete a pre-construction survey for badgers no less than 14 days and no more than 30 days prior to the start of initial project activities to determine if badgers are present within proposed work areas, in addition to a 200-foot buffer around work areas. The results of the survey shall be provided to the County prior to initial project activities.

- a) if a potential den is discovered, it shall be inspected to determine whether they are occupied. The survey shall cover the entire property and shall examine both old and new dens. The den will be monitored for 3 consecutive nights with an infra-red, motion-triggered camera, prior to any project activities, to determine if the den is being used by

an American badger. If potential badger dens are too long to completely inspect from the entrance, a fiber optic scope shall be used to examine the den to the end. Inactive dens may be excavated by hand with a shovel to prevent re-use of dens during construction.

- b) If an active badger den is found, an exclusion zone shall be established around the den. A minimum of a 50-foot exclusion zone shall be established during the non-reproductive season (July 1 to January 31) and a minimum 100-foot exclusion zone during the reproductive season (February 1 to June 30). Each exclusion zone shall encircle the den and have a radius of 50 feet (non-reproductive season) or 100 feet (reproductive season, nursing young may be present), measured outward from the burrow entrance. To avoid disturbance and the possibility of direct take of adults and nursing young, and to prevent badgers from becoming trapped in burrows during construction activity, no grading shall occur within 100 feet of active badger dens between February and July. All project activities, including foot and vehicle traffic and storage of supplies and equipment, are prohibited inside exclusion zones. Exclusion zones shall be maintained until all project-related disturbances have been terminated, or it has been determined by a qualified biologist that the den is no longer in use. If avoidance is not possible during project construction or continued operation, the County shall be contacted. The County will coordinate with appropriate resource agencies for guidance.
- c) If more than 30 days pass between construction phases (e.g., vegetation trimming and the start of grading), during which no or minimal work activity occurs, the badger survey shall be repeated.

BR-12 Monitoring: Required within two weeks of site disturbance or construction activities. A final report shall be provided to the County prior to initial project activities. Compliance will be verified by the County Department of Planning and Building.

Oak Tree Protection and Mitigation Measures

BR-13 Prior to commencement of project construction activities, tree protection fencing shall be installed around the dripline or critical root zone (1.5 times the trunk diameter), whichever distance is greater, of all oak trees within 50 feet of project activities. The fencing shall be in place throughout the duration of the project.

If impacts, including pruning and any ground disturbance, within this area are unavoidable, impacts to nearby oak trees shall be assessed by a Certified Arborist **at the time of project construction**. A Certified Arborist shall be present during approved Project activities within the critical root zone to document impacts to the trees and shall provide a written report to the County of any mitigation obligation.

BR-14 If at the time of project construction, it is found that impacts to native trees are unavoidable, impacts shall be mitigated by planting additional trees on site. Any oak tree with a dbh of five inches or greater shall require mitigation. Oak trees removed shall be replaced in kind at a 4:1 ratio. Impacts to oak trees shall be mitigated by planting additional oak trees, in kind, at a 2:1 ratio.

Replacement trees shall be planted **prior to project finalization**, shall be of one-gallon size; of local origin, and of the same species as was impacted. Replacement trees shall be seasonally maintained and monitored annually for at least seven years.

BR13 to BR-14 Monitoring: Required prior to construction activities. Compliance will be verified by the County Department of Planning and Building.

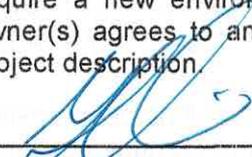
Nesting Birds Protection Measures

BR-15 Pre-construction Survey for Sensitive and Nesting Birds. If work is planned to occur between February 1 and August 31, a qualified biologist shall survey the area for nesting birds within one week prior to initial project activity beginning, including ground disturbance and/or vegetation removal/trimming. This includes nests of all common bird species (under the MBTA), as well as special status birds and raptor nests. If nesting birds are located on or near the proposed project site, they shall be avoided until they have successfully fledged, or the nest is no longer deemed active.

- a) A 250-foot exclusion zone shall be placed around non-listed, passerine species, and a 500-foot exclusion zone will be implemented for raptor species. Each exclusion zone shall encircle the nest and have a radius of 250 feet (non-listed passerine species) or 500 feet (raptor species). All project activities, including foot and vehicle traffic and storage of supplies and equipment, are prohibited inside exclusion zones. Exclusion zones shall be maintained until all project-related disturbances have been terminated, or it has been determined by a qualified biologist that the young have fledged or that proposed project activities would not cause adverse impacts to the nest, adults, eggs, or young.
- b) If special status avian species (aside from the burrowing owl) are identified and nesting within the work area, no work will begin until an appropriate exclusion zone is determined in consultation with the County and any relevant resource agencies.
- c) The results of the survey shall be provided to the County prior to initial project activities. The results shall detail appropriate fencing or flagging of exclusion zones and include recommendations for additional monitoring requirements. A map of the project site and nest locations shall be included with the results. The qualified biologist conducting the nesting survey shall have the authority to reduce or increase the recommended exclusion zone depending on site conditions and species (if non-listed).
- d) If two weeks lapse between different phases of project activities (e.g., vegetation trimming and the start of grading), during which no or minimal work activity occurs, the nesting bird survey shall be repeated.

BR-15 Monitoring: Required within one week of site disturbance or construction activities. A final report is required within 30-days of completion of surveys. Compliance will be verified by the County Department of Planning and Building.

The applicant understands that any changes made to the project description after this environmental determination must be reviewed by the Environmental Coordinator and may require a new environmental determination for the project. By signing this agreement, the owner(s) agrees to and accepts the incorporation of the above measures into the proposed project description.



Signature of Agent(s)

11/21/2022

Date

GREG WIEMANN

Name (Print)